

11-1447 KOONTZ V. ST. JOHNS RIVER WATER MGMT.

DECISION BELOW: 77 So.3d 1220

LOWER COURT CASE NUMBER: SC09-713

QUESTION PRESENTED:

For over eleven years, a Florida land use agency refused to issue any of the permits necessary for Coy A. Koontz, Sr., to develop his commercial property. The reason was because Koontz would not accede to a permit condition requiring him to dedicate his money and labor to make improvements to 50 acres of government-owned property located miles away from the project—a condition that was determined to be wholly unrelated to any impacts caused by Koontz's proposed development. A Florida trial court ruled that the agency's refusal to issue the permits was invalid and effected a temporary taking of Koontz's property, and awarded just compensation. After the appellate court affirmed, the Florida Supreme Court reversed, holding that, as a matter of federal takings law, a landowner can never state a claim for a taking where (1) permit approval is withheld based on a landowner's objection to an excessive exaction, and (2) the exaction demands dedication of personal property to the public.

The questions presented are:

1. Whether the government can be held liable for a taking when it refuses to issue a land-use permit on the sole basis that the permit applicant did not accede to a permit condition that, if applied, would violate the essential nexus and rough proportionality tests set out in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994); and

2. Whether the nexus and proportionality tests set out in *Nollan* and *Dolan* apply to a land-use exaction that takes the form of a government demand that a permit applicant dedicate money, services, labor, or any other type of personal property to a public use.

CERT. GRANTED 10/5/2012